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UNCLAS THE HAGUE 001754

SIPDIS

E.O. 12958: N/A

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SUBJECT: POLICY CHANGE TO CIRCULAR 175 AUTHORITY
AUTHORIZING LONGER-TERM STATUS OF FORCES AGREEMENT

REF: SECSTATE 71266

1. WE STRONGLY RECOMMEND AGAINST ANY PRE-RATIFICATION NEGOTIATIONS AS OUTLINED IN REFTEL. OF THE CATEGORIES OFFERED IN REFTEL, PARAGRAPH 8, WE CHOOSE CATEGORY D: NOT FEASIBLE AT THIS TIME. AFTER THE CURRENT FOL AGREEMENT IS RATIFIED, HOWEVER, WE WOULD RECOMMEND CATEGORY B: FEASIBLE WITH SOME CHALLENGES. THESE CHALLENGES, WHILE FEW IN NUMBER, WOULD NEVERTHELESS BE SIGNIFICANT OBSTACLES TO A MORE EXTENSIVE AGREEMENT.

2. THE LANGUAGE PROPOSED IN REFTEL REGARDING AN EXPANDED, LONGER-TERM STATUS OF FORCES AGREEMENT (SOFA) COVERING PERSONNEL STATIONED IN ARUBA AND THE NETHERLANDS ANTILLES RESEMBLES OUR OPENING PROPOSAL FOR THE SOFA-LIKE FORWARD OPERATING LOCATION (FOL) AGREEMENT ESTABLISHING OUR PRESENCE IN ARUBA AND CURACAO. WE BELIEVE THAT THE DUTCH RESPONSE TO THE REFTEL PROPOSAL WILL MIRROR THAT GIVEN TO THE FOL OPENING PROPOSAL. THIS RESPONSE FEATURED OBJECTIONS TO THE LEVEL OF PRIVILEGES AND IMMUNITIES PROPOSED FOR PERSONNEL AND THEIR DEPENDENTS AND THE EXTENT TO WHICH SUCH OPERATIONS WOULD INVOLVE PART OF THE KINGDOM NOT UNDER DIRECT DUTCH CONTROL. THERE WAS ALSO CONSIDERABLE UNEASE ABOUT THESE LOCATIONS BEING USED TO INTERVENE MILITARILY IN THE AFFAIRS OF ANOTHER COUNTRY. ALTHOUGH THE NETHERLANDS IS A MILITARY ALLY, THE DUTCH ARE PARTICULARLY SENSITIVE ABOUT MILITARY AGREEMENTS WITH THE U.S. IN THE CARIBBEAN AND LATIN AMERICA. THIS SENSITIVITY IS EVEN GREATER AFTER A YEAR OF SOMETIMES TENSE NEGOTIATION OVER THE FOL AGREEMENT.

3. AFTER EXTENSIVE NEGOTIATIONS SURROUNDING THESE ISSUES, THE FOL AGREEMENT IS CURRENTLY AWAITING RATIFICATION BY THE DUTCH LEGISLATURE. IT IS, HOWEVER, BEING PROVISIONALLY APPLIED IN THE CARIBBEAN WITH THE OPTIMISTIC EXPECTATION THAT IT WILL BE RATIFIED, BUT WE DO NOT EXPECT THIS TO OCCUR IN THE NEAR FUTURE. IF THE PROPOSAL IN REFTEL WERE RAISED WITH THE GON BEFORE RATIFICATION OF THE FOL AGREEMENT, THE FOL AGREEMENT ITSELF MIGHT NOT BE RATIFIED BY THE GON DUE TO THE RESURFACING OF THE OBJECTIONS ITEMIZED ABOVE. THIS WOULD JEOPARDIZE THE ENTIRE OPERATION IN THE CARIBBEAN.

4. THE KINGDOM OF THE NETHERLANDS CONSISTS OF THREE COUNTRIES: THE NETHERLANDS, THE NETHERLANDS ANTILLES, AND ARUBA. ALTHOUGH THE NETHERLANDS ANTILLES AND ARUBA ARE SELF-GOVERNING, THE NETHERLANDS RESERVES POWER OVER FOREIGN AND DEFENSE POLICY. THEREFORE, ANY AUTHORIZATION AS PROPOSED IN REFTEL WOULD REQUIRE THE AGREEMENT OF ALL THREE GOVERNMENTS.

5. THIS RESPONSE WAS COORDINATED WITH CONGEN CURACAO AS REQUESTED IN REFTEL AND APPLIES TO THE GOVERNMENTS OF THE DUTCH ANTILLES AND ARUBA.

SCHNEIDER